



THE ROLE OF THE STATE IN EFFORTS TO PROTECT CHILDREN'S RIGHTS FROM THE PERSPECTIVE OF LAW NUMBER 35 OF 2014 CONCERNING CHILD PROTECTION

Muhammad Iqbal Anwar ^{*1}, T. Riza Zarzani ^{*2}, Henry Aspan ^{*3}

Universitas Pembangunan Panca Budi

Email : iqbal.pa2011@gmail.com trizazarzani@dosen.pancabudi.ac.id
henryaspan@dosen.pancabudi.ac.id

Article Info	Abstract
Article History Received : 2024-12-03 Revised: 2024-12-10 Published: 2025-01-15	This study aims to analyze the role of the state in protecting children's rights based on Law Number 35 of 2014 concerning Child Protection (UU PA). The research method used is library research with a qualitative approach and content analysis techniques. Data were obtained from literature studies on laws and regulations, policy documents, and previous research results related to child protection.
Keywords: <i>Child Protection, Children's Rights, Law No. 35 of 2014, Role of the State, Violence against Children.</i>	The results of the study show that the state has a central role in ensuring the fulfillment of children's rights through three main aspects: regulation, policy implementation, and law enforcement. The Child Protection Law mandates the state to ensure the rights of survival, growth and development, protection from violence and discrimination, and children's participation. However, implementation in the field still faces serious challenges, such as the high number of cases of violence against children (molestation, abuse, bullying), limited access to education and health, and weak coordination between institutions. KPAI data (2023) shows an increase in cases of violence against children by 15% in the last three years, which indicates that the role of the state is not yet optimal. This study also identified that the Child Protection Act has not been fully effective due to the unclear monitoring mechanism, low budget allocation, and a permissive community culture towards violence. On the other hand, partial success is seen in the implementation of restorative justice and diversion in the juvenile criminal justice system, which reduces stigmatization of juvenile perpetrators of crimes. The conclusion of the study emphasizes the importance of strengthening regulations to strengthen sanctions for perpetrators of child crimes, increasing cross-sector synergy (government, community, non-governmental organizations), and massive education on children's rights. Strategic recommendations include the establishment of an integrated reporting system, increasing the capacity of law enforcement officers, and optimizing the role of local governments in the Child-Friendly Regency/City program.

I. INTRODUCTION

Children's rights are human rights that have been inherent since birth in the world or are still in the womb based on the laws stated and applicable laws and regulations such as human rights regarding the right to physical, mental and social growth and development as a whole and the right to protection from violence and discrimination by anyone based on the law as a guarantor so that in the future it can be useful for the nation, religion, and family. Protection of children's rights is very necessary, children must be protected so that they do not become victims of any actions either by other people or in their own family environment either directly or indirectly, because children are part of citizens who will be useful in the future, children must also be protected by parents providing a sense of security and comfort, but in reality there are still many

problems related to violence by parents on children.(Ine 2023)

Law No. 23 of 2002 was created due to the poor conditions of children in Indonesia. This law was born after the UN General Assembly ratified the Convention on the Rights of the Child (CRC) on November 20, 1989.1 After the CRC was ratified, the convention received a lot of support from UN members including Indonesia. The next step after ratifying the CRC, Indonesia issued Presidential Decree (Keppres) No. 36 of 1990 as evidence of strengthening the implementation of the Convention on the Rights of the Child.(Ahmatnihar 2022)

With the issuance of the presidential decree, Indonesia is legally bound to implement children's rights with all its consequences. After the CRC was ratified by Indonesia through Presidential Decree No. 36 of 1990, precisely on

August 25, 1990, Indonesia did not yet have policies and laws on child protection that were oriented towards the Convention on the Rights of the Child. Indonesia needed 12 years to issue laws on Child Protection. On October 22, 2002, Indonesia officially enacted Law No. 23 of 2002 on child protection in accordance with the CRC. Furthermore, due to very dynamic social changes, cases emerged that had not been accommodated in Law No. 23 of 2002 so that the Government amended Law No. 35 of 2014 dated October 17, 2014 on Amendments to Law No. 23 of 2002 on Child Protection. (Purba and Zarzani 2023)

The substance of Law No. 23 of 2002 concerning child protection and Law No. 35 of 2014 are children's rights, principles of child protection, children's obligations, special protection and criminal provisions. Some of the children's rights stated in the law are the right to survival, the right to grow and develop, the right to protection from violence and discrimination, the right to participate, civil rights and freedoms, the right to care, the right to foster care, the right to use free time, the right to health and welfare, and the right to education and culture. The principles of child protection are non-discrimination, the best interests of the child, the right to life, survival and development and respect for the child's opinion.

The state is expected to be at the forefront in efforts to protect and protect children's rights from inhumane hunters. Children as very vulnerable creatures when outside the supervision of their families require synergy and all elements of society and legal instruments so that their growth is not disturbed which ultimately results in children experiencing lifelong losses because their honor has been damaged by depraved humans.

However, in reality, the existence of child protection laws that have been mandated by the state cannot run smoothly as ideally, if the written regulations are not supported by a strong desire from all elements of the nation, they will only leave wounds for the growth and development of children, many cases are published in print and electronic media how crimes against children occur openly but the state has not been able to be present to serve and guarantee the fulfillment and protection of the rights of the golden generation of this nation. Cases of molestation, abuse, bullying, loss of access to education and poor health services and others are some forms of machines that destroy the future of children, but the inequality and exploitation of children's rights do

not seem to be a priority to be addressed together. Therefore, more adequate regulations are needed in efforts to protect children's rights in the legal system in Indonesia. (Anak 2020)

II. RESEARCH METHODS

The type of research is library research with objects in the form of books, manuscripts related to the issues discussed. (Indra utama Tanjung 2024) This research is qualitative, where data presentation is not done by expressing it numerically as in quantitative research. In this research, what is often done is flexible data presentation by tracing the truths of the facts that occur in the field (field research). In this writing, the content analysis technique is used. This technique is intended to analyze the meaning contained in the data that has been collected through library research. Data analysis used in qualitative research is more descriptive analytical in nature, meaning that interpretations of the content are made and arranged systematically and comprehensively.

III. RESULTS AND DISCUSSION

A. Child Protection Legal Policy in Legislation

Indonesia has ratified the international instrument of the Convention on the Rights of the Child (CRC) since 1990 with Presidential Decree No. 36 of 1990. In general, the CRC details children's rights in 54 articles which are grouped into 4 (four) basic rights. First, the right to survive (survival rights), second, the right to grow and develop (development rights), third, the right to protection (protection rights), fourth, the right to participate (participation rights).

By ratifying the CRC, Indonesia certainly makes every effort to ensure that all of these rights are respected, protected, and fulfilled. The Convention on the Rights of the Child is a legal instrument that contains the formulation of universal principles and provisions of legal norms regarding children. The Convention on the Rights of the Child is an international agreement on human rights that includes each of the civil and political rights, economic, social and cultural rights. Based on the Convention on the Rights of the Child, children's rights can generally be grouped into 4 (four) categories of children's rights, including. (Murniasih, n.d.)

1. The right to survival (The Right To Survival) is the right to preserve and defend life (The Right of Live) and the right to obtain the

- highest standard of health and the best possible care;
2. The right to protection (Protection Rights) is the right in the Convention on the Rights of the Child which includes the right to protection from discrimination, violence and neglect for children who do not have families for refugee children;
 3. The right to development (Development Rights) is the child's rights in the Convention on the Rights of the Child which includes all forms of education (formal and non-formal) and the right to achieve a standard of living that is appropriate for the child's physical, mental, spiritual, moral and social development (the rights of standard of living);
 4. Participation Rights, namely the rights of a child to express her/his views freely in all matters affecting the child. The right to participate is also the child's right regarding the child's fundamental cultural identity, childhood and the development of his/her involvement in the wider community.
- In addition to Article 28B of the 1945 Constitution, the state guarantees every child to live, grow and develop and has the right to protection from violence and discrimination. Various laws and regulations containing regulatory substances in efforts to protect children's rights can be seen in the table below:

No.	Types of Regulations Legislation	List of Names of Legislation
	Constitution	▪ Law Number 4 of 1979 concerning Child Welfare ▪ Law Number 20 of 1999 concerning Ratification of ILO Convention No. 138 Concerning Minimum Age for Admission to Employment (ILO Convention concerning Minimum Age for Admission to Employment) ▪ Law Number 1 of 2000 concerning Ratification of ILO Convention No. 182 Concerning The Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour). ▪ Law Number 39 of 1999 concerning Human Rights ▪ Law Number 43 of 1999 concerning the Press ▪ Law Number 23 of 2002 concerning Child Protection in conjunction with Law Number 17 of 2016 concerning the second amendment to Law Number 23 of 2002 concerning Child Protection ▪ Law Number 32 of 2002 concerning Broadcasting ▪ Law Number 23 of 2004 concerning the Elimination of Domestic Violence ▪ Law Number 13 of 2006 concerning Protection of Witnesses and Victims
		▪ Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Human Trafficking. ▪ Law Number 44 of 2008 concerning Pornography ▪ Law Number 10 of 2012 concerning Ratification of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography ▪ Law Number 11 of 2012 concerning the Juvenile Criminal Justice System ▪ Law Number 23 of 2014 concerning Regional Government as last amended by Law Number 9 of 2015
	Government regulations	▪ Government Regulation Number 4 of 2006 concerning the Implementation of Cooperation for the Recovery of Victims of Domestic Violence ▪ Government Regulation Number 43 of 2017 concerning the Implementation of Restitution for Children who are victims of criminal acts
	Ministerial regulation	▪ Regulation of the Minister of State for Women's Empowerment Number 3 of 2008 concerning Guidelines for the Implementation of Child Protection ▪ Regulation of the Minister of State for Women's Empowerment of the Republic of Indonesia Number 02 of 2009 Concerning Child-Friendly Regency/City Policy ▪ Regulation Minister Women's Empowerment and Child Protection Number 13 of 2010 concerning Guidelines for the Development of Provincial Level KLA ▪ Regulation Minister Women's Empowerment and Child Protection Number 14 of 2010 concerning Technical Instructions for KLA in Villages/Sub-districts

		- Regulation Minister Women's Empowerment and Child Protection Number 11 of 2011 about KLA Development Policy - Regulation Minister Women's Empowerment and Child Protection Number 12 of 2011 concerning KLA Indicators - Regulation Minister Women's Empowerment and Child Protection Number 13 of 2011 concerning KLA Development Guidelines - Regulation Minister Women's Empowerment and Child Protection Number 14 of 2011 concerning KLA Evaluation. - Regulation Minister Women's Empowerment and Child Protection Number 6 of 2015 concerning the Empowerment System Woman and Child Protection - Regulation of the Minister of Home Affairs Number 2 of 2016 concerning Child Identity Cards - Regulation Minister Women's Empowerment and Child Protection Number 7 of 2019 concerning Guidelines for the Protection of Children from Radicalism and Criminal Acts of Terrorism
	Other Legislation	Presidential Decree Number 36 of 1990 concerning Ratification of the Convention on the Rights of the Child

B. Law Number 23 of 2002 concerning Child Protection in conjunction with Law Number 35 of 2014 concerning the second amendment to Law Number 23 of 2002 concerning Child Protection

Based on this regulation, it has been defined that children's rights are part of human rights that must be guaranteed, protected, and fulfilled by Parents, Family, society, state, government, and local government. This definition has been changed through Law Number 35 of 2014, the previous definition regulated in Law Number 23 of 2002 did not include the element of local government. The first amendment to Law Number 23 of 2002 through the enactment of Law Number 35 of 2014 brought about a better change, where Law Number 35 of 2014 has actively involved the role of local government in child protection efforts. (Hamida and Setiyono 2022)

Article 3, child protection aims to ensure that children's rights are fulfilled so that they can live, grow, develop and participate optimally in accordance with human dignity and honor, and receive protection from violence and discrimination, in order to realize Indonesian children who are of high quality, have noble morals and are prosperous.

The purpose of child protection in this case is very clear that children's rights must be fulfilled. The rights of children in this law are regulated in Articles 4 to 18, while the obligations of children are only regulated in one article, namely Article 19. The State, Government, Regional Government, Community, Family, and Parents or Guardians are obliged and responsible

for the implementation of Child Protection (Article 20). Specifically related to the Obligations and Responsibilities of the State, Government, and Regional Government are regulated in Articles 21 to 24. (Iskandar et al. 2022)

The State, Government, and Regional Government are obliged and responsible for respecting the fulfillment of Children's Rights without distinguishing between tribe, religion, race, class, gender, ethnicity, culture and language, legal status, birth order, and physical and/or mental conditions (Article 21 paragraph 1). To guarantee the fulfillment of Children's Rights, the state is obliged to fulfill, protect, and respect Children's Rights (Article 21 paragraph 2).

To ensure the fulfillment of Children's Rights, the Government is obliged and responsible for formulating and implementing policies in the field of implementing Child Protection (Article 21 paragraph 3). Furthermore, to ensure the fulfillment of Children's Rights and implement these policies, the Regional Government is obliged and responsible for implementing and supporting national policies in implementing Child Protection in the regions (Article 21 paragraph 4). Policies can be realized through regional efforts to build child-friendly districts/cities (Article 21 paragraph 5).

C. Law Number 39 of 1999 concerning Human Rights

Based on this law, the definition of a Child is every human being under the age of 18 (eighteen) years and unmarried, including a child who is still in the womb if it is in their interest. Specifically related to the regulation of human rights for

children is regulated in Articles 52 to 66. The following are regulations containing provisions on children's rights.

Article 52 paragraph (1), Every child has the right to protection by parents, family, society and the state. (2) Children's rights are human rights and it is in their interests that children's rights are recognized and protected by law even from the time they are in the womb. Article 53 paragraph (1) Every child from the womb has the right to live, maintain life and improve his standard of living. (2) Every child from birth has the right to a name and citizenship status.(Suadi 2018)

Article 54, Every child with physical and/or mental disabilities has the right to receive special care, education, training, and assistance at the expense of the state, to ensure their life in accordance with human dignity, increase self-confidence, and the ability to participate in community, national, and state life. Article 55, Every child has the right to worship according to their religion, think, and express themselves according to their intellectual level and age under the guidance of their parents and/or guardians.

Article 56 paragraph (1), Every child has the right to know who his parents are, to be raised and cared for by his own parents. (2) If the child's parents are unable to raise and care for their child properly and in accordance with this Law, then the child may be cared for or adopted as a child by another person in accordance with the provisions of statutory regulations.

Every child has the right to be raised, cared for, cared for, educated, directed, and guided in life by his/her parents or guardian until adulthood with the provisions of laws and regulations (Article 57 paragraph 1). Every child has the right to obtain adoptive parents or guardians based on a court decision if both parents have died or for a legitimate reason are unable to carry out their duties as parents (Article 57 paragraph 2). Adoptive parents or guardians must carry out their duties as real parents (Article 57 paragraph 3).

D. Law Number 23 of 2004 concerning the Elimination of Domestic Violence

This regulation has tried to provide legal protection for vulnerable or subordinated groups, especially women and children. This regulation is very necessary in connection with the many cases of violence, especially domestic violence. This law is about prevention, protection and recovery for victims of domestic violence.

As regulated in Article 2 paragraph (1), the scope of household in this Law includes: a. husband, wife, and children; b. people who have family relationships with people as referred to in letter a due to blood relations, marriage, breastfeeding, foster care, and guardianship, who reside in the household; and/or c. people who work to help with the household and reside in the household.

Article 5, Every person is prohibited from committing domestic violence against people within their household, by means of: a. physical violence; b. psychological violence; c. sexual violence; or d. neglect of the household.

Articles 6 to 9 regulate what is meant by domestic violence as regulated in Article 5, including:

1. Physical violence is an act that results in pain, illness, or serious injury.
2. Violence is an act that results in fear, loss of self-confidence, loss of ability to act, feelings of helplessness, and/or severe psychological suffering in a person.
3. Sexual violence includes:
 - a. forced sexual intercourse committed against a person residing within the household
 - b. forced sexual relations with one person within the household with another person for commercial and/or specific purposes.
4. Neglect

Where everyone is prohibited from neglecting people within their household, even though according to the law applicable to them or because of an agreement or contract they are obliged to provide life, care, or maintenance to the person. The neglect referred to also applies to anyone who results in economic dependency by limiting and/or prohibiting them from working properly inside or outside the home so that the victim is under the control of the person.(Yohan 2021)

Article 11, The government is responsible for efforts to prevent domestic violence. Article 13, To provide services to victims, the government and regional governments in accordance with their respective functions and duties can make efforts:

- a. provision of special service rooms in police offices;
- b. provision of personnel, health workers, social workers and spiritual guides;

- c. creation and development of a system and mechanism for cooperation in service programs involving parties that are easily accessible to victims; and providing protection for companions, witnesses, families, and friends of victims.

E. The Purpose of Legal Protection of Children's Rights

The government is obliged and responsible for formulating and implementing policies in the field of child protection through the issuance of regulations regarding the provision of protection so that there is a legal guarantee for child protection activities that have an impact on the Continuity of child protection and prevent fraud in the implementation of child protection. In ensuring the fulfillment of children's rights and implementing policies, local governments are obliged and responsible for implementing and supporting.(Fitriani 2024)

Furthermore, Article 3 of Law Number 23 of 2002 concerning Child Protection stipulates that: "Child protection aims to ensure the fulfillment of children's rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and honor, and receive protection from violence and discrimination, in order to realize Indonesian children who are qualified, have noble morals, and are prosperous."

Existing laws and regulations have placed children as legal subjects who must also receive protection. While legal entities are one of the legal subjects because in reality it is desired so. The explanation of Law Number 23 of 2002 explains that children are a mandate and a gift from God Almighty, which must always be protected because in them are inherent dignity, honor, and rights as human beings that must be upheld.

Parents, families and communities are responsible for maintaining and preserving these human rights in accordance with the obligations imposed by law. Likewise, in the context of implementing child protection, the State and government are responsible for providing facilities and accessibility for children, especially in ensuring their growth and development optimally and in a targeted manner.

Law Number 23 of 2002 emphasizes that the responsibility of parents, families, communities, governments and the State is a series of activities carried out continuously to protect children's rights. The series of activities must be sustainable and directed to ensure the

growth and development of children, both physically, mentally, spiritually and socially.

Protection of children to receive treatment and opportunities that are in accordance with their needs in various areas of life, so that in providing legal protection for children by the government must be based on the principles of children's rights and protection of children's rights.

Child protection efforts need to be implemented as early as possible, namely from the fetus in the womb until the child is 18 (eighteen) years old. In carrying out the guidance, development and protection of children, the role of the community is needed, either through child protection institutions, religious institutions, non-governmental organizations, community organizations, social organizations, the business world, mass media, or educational institutions along with other community components.

F. The Role of the State and Society in Legal Protection Efforts for Children's Rights

Based on the 1945 Constitution Article 34, where is the role of the central and regional governments in handling and eliminating the presence of street children who are increasing every year. The government should be responsive to this phenomenon, because through the National Education System Law, it has been mandated that 20% of the APBN budget must be utilized/allocated for the National education budget, with a compulsory education pattern of 9, 12 years, so that it is hoped that no Indonesian children will drop out of school. So that it can reduce the rate of urbanization of poor rural children flowing to urban areas, which ultimately increases the quantity of street thuggery in big cities, it is highly expected by the community as a pioneer to eradicate street children who are increasingly identical to commercial sex workers, beggars and vagrants) without any increasingly classic reasons, the limited APBD budget.

In the framework of the government if there is a desire to implement the 1945 Constitution article 34, then the regional government (autonomy) must synergize with related parties in this case both the private sector, society, government, NGOs, interfaith figures, even the security forces in this case the Police, and Satpol PP in providing legal protection to street children (gepeng), meaning that the regional government must have openness (transparency) in handling street children. So that from the aspect of equity and equality in the eyes of the law can be applied

to them. It is truly unfair if there are general crimes that occur in society, then street children become the target of security forces to be arrested, arrested without any resolution, legal process in accordance with the paradigm of the rule of law, they are simply thrown into prison.

According to the World Convention on the Rights of the Child in 1989, and Indonesia is one of the countries in the world that ratified the Convention with Presidential Decree No. 39 of 1990, the content of which is, every child regardless of gender, national origin and country, SARA, which contains the following:

- a. The right to survival or servival rights, which include the right to maintain life or the rights of life, the right to a decent standard of living and to good health services or the rights to the hygienic standard of health and medical care attainable.
- b. Children's rights to development include education, information, arts and cultural activities, freedom of thought, belief and religion, the rights of children with disabilities to services, treatment, special education and free time.
- c. Protection rights consist of protection from all forms of exploitation, cruel treatment, and arbitrary treatment in the criminal justice process.
- d. Participation rights, namely the freedom to express opinions, assemble, associate, and participate in decision-making concerning him/herself or the rights of the child to express her/his views in all matters affecting the child.

Based on the description above, it can be understood that legal protection for children is all forms of protection provided to children, not only to children in conflict with the law but also to protection for victims, especially victims of violence as referred to in Article 59 of the UUPA, including physical, psychological and sexual violence, which is carried out through efforts to disseminate socialization of provisions of laws and regulations that protect children who are victims of violence.(Yohan 2021)

With the guarantee in the 1945 Constitution, it can be interpreted that children are considered not yet capable of standing alone, either spiritually, physically or socially. Thus, based on Article 28B paragraph (2) of the 1945 Constitution, the state, in this case the government, is obliged to protect children as part

of citizens whose future must continue to be looked after.

The guarantee of protection contained in the Convention on the Rights of the Child is outlined in the laws and regulations in Indonesia, namely Law No. 3 of 1997 concerning Juvenile Courts and Law No. 23 of 2002 concerning Child Protection. The Child Protection Law states that other state institutions are obliged and responsible for providing special protection to children in emergency situations, children in conflict with the law, children from minority and isolated groups, children who are exploited economically and/or sexually, children who are traded, children who are victims of abuse of narcotics, alcohol, psychotropics, and other addictive substances (napza), children who are victims of kidnapping, sale and trade, children who are victims of physical and/or mental violence, children with disabilities, and children who are victims of mistreatment and neglect (Article 59 of the UUPA). This special protection is implemented through Article 64 paragraph (2) of the UUPA.

According to Law Number 13 of 2006 concerning Protection of Witnesses and Victims, the definition of a Victim is a person who experiences physical, mental, and/or economic suffering caused by a criminal act. The Law provides protection for witnesses and victims in all stages of the criminal justice process in the judicial environment as stated in Article 2 of Law Number 13 of 2006 concerning Protection of Witnesses and Victims, Protection of Witnesses and Victims is based on Article 3:

- a. respect for human dignity and worth;
- b. sense of security;
- c. justice;
- d. non-discriminatory; and
- e. legal certainty.

The Convention on the Rights of the Child also provides protection guarantees (Special) for children in conflict with the law. This is contained in article 37 concerning torture and deprivation of liberty. Briefly concerning the prohibition of torture, cruel treatment or punishment, the death penalty, life imprisonment, and arbitrary detention or deprivation of liberty. The principles of appropriate handling, separation from adult prisoners, contact with family and access to legal aid and other assistance.(Arifin 2021)

G. Protection of Children in Conflict with the Law

In the context of Indonesia, Law Number 11 of 2012 concerning the Child Protection System (SPPA) which came into effect in July 2014 has permanent legal force to be implemented after being ratified. In the law as referred to in Article 6 to Article 15 there are provisions for diversion which are an update in the juvenile criminal justice system. Diversion is an action or treatment that moves a case from a formal to an informal process, or removes a child perpetrator from a formal court.

The important role of diversion is felt especially in providing protection for children's human rights. When a child commits a crime, there must be a resolution. Settlement of cases through formal criminal justice channels has a negative impact on children's development as previously explained. According to Harefa in the book *Selected Chapters on Child Criminal Law*, since the investigation/probe in the police, children's rights have the potential to be violated. Continued at the prosecution stage by the public prosecutor to the trial in court. At the trial in court, children have a great chance of being given criminal sanctions or action sanctions. Even the negative impacts continue when the child is in a correctional institution. Schools of crime and stigmatization have the potential to be obtained by children. Therefore, placing children in the formal criminal justice process must be avoided, because it violates children's human rights.

Where in the Child Criminal Justice System Law it is regulated that at the level of investigation, prosecution, and examination of Child cases in the district court, diversion must be attempted, this is emphasized in Article 7 paragraph 1 of the Child Justice System Law. The diversion mechanism is as follows:

- a. Diversion at the police investigation stage is the main door or first examination

process of the juvenile criminal justice system and is the first party authorized to determine the position of a child who has problems with the law.

- b. Diversion at the prosecution stage As per the principle of the Welfare Approach in handling Juvenile Delinquency and in accordance with the provisions of the Child Criminal Justice System Law, the Prosecutor as Public Prosecutor clearly has the right to carry out diversion, where the Public Prosecutor is obliged to attempt diversion no later than 7 (seven) days after receiving the case files from the Investigator and the diversion is carried out no later than 30 (thirty) days.
- c. Diversion at the stage of the examination of children's courts for children who commit crimes in every judicial process, whether when dealing with the police, prosecutors or during court trials, basically has the right to have their rights as child suspects protected.

However, not all acts committed by children can be diverted. Diversion efforts can only be implemented in cases where the crime committed is threatened with imprisonment of less than 7 (seven) years and is not a repeat of the crime.

Children in conflict with the law are defined as children who are victims, witnesses, or perpetrators of criminal acts. This is because children are a vulnerable group who can be targeted by criminals at any time. In addition, children who become perpetrators of criminal acts are actually victims because of their ignorance or because of the influence of their environment. The cases that children often face are:

NO	CASE	RELATED REGULATIONS	THREAT
1	Abuse/ Mob ult/ violence.	Article 170 paragraph (1) of the Criminal Code (assault).	Maximum prison sentence of 5 years and 6 months.
		Article 170 paragraph (2) number 1: if it results in injuries.	Maximum prison sentence of 7 years.
		Article 170 paragraph (2) number 2: if it results in serious injury.	Maximum prison sentence of 9 years.
		Article 170 paragraph (2) number 3: if it results in death.	Maximum prison sentence of 12 years.
		Article 351 paragraph (1) of the Criminal Code: simple assault.	The longest prison term was 2 years and 8 months.
		Article 351 paragraph (2) of the Criminal Code: assault resulting in serious injury.	Maximum prison sentence of 5 years.

NO	CASE	RELATED REGULATIONS	THREAT
		Article 351 paragraph (3) of the Criminal Code: assault resulting in death.	Maximum prison sentence of 7 years.
		Article 352: minor assault.	Maximum prison sentence of 3 months.
		Article 353 paragraph (1): premeditated assault.	Maximum prison sentence of 4 years.
		Article 353 paragraph (2): premeditated assault resulting in serious injury.	Maximum prison sentence of 7 years.
		Article 353 paragraph (3): premeditated assault resulting in death.	The maximum prison sentence is 9 years.
		Article 354 (1): severe abuse.	Maximum prison sentence of 8 years.
		Article 354 paragraph (2): severe abuse resulting in death.	Maximum prison sentence of 10 years.
		Article 355 paragraph (1): premeditated serious assault.	Maximum prison sentence of 12 years.
		Article 355 paragraph (1): premeditated serious assault resulting in death.	Maximum prison sentence of 15 years.
		Article 356: is aggravated if the abuse is committed against the mother, father, wife or legitimate child. Or towards officials who are carrying out their duties.	Plus 1/3.
		Article 358: intentionally participating in an attack or fight in which several people are involved.	At most 2 years 8 months, if there are serious injuries. At most 4 years, if someone dies.
NO	CASE	RELATED REGULATIONS	THREAT
		Article 80 of the Child Protection Law. Cruelty, violence or threats of violence, or abuse of children.	Maximum imprisonment of 3 years and 6 months and/or a maximum fine Rp. 72 million. A maximum of 5 years and/or a maximum fine of Rp. 100 million if the child is seriously injured. A maximum of 10 years and/or a maximum fine of Rp. 200 million if the child dies. The penalty is increased by 1/3 if the perpetrator is the parent.
2	Murder	Article 338 of the Criminal Code: common murder.	Maximum prison sentence of 15 years.

		Article 339 of the Criminal Code: murder is preceded by another criminal act.	Life imprisonment or a maximum of 20 years.
		Article 340 of the Criminal Code: premeditated murder (premeditated murder).	Death penalty, life imprisonment or maximum imprisonment 20 years.
3	Drug Abuse.		
4	Drug ier/Dealer.	Article 89 paragraph (1) of Law No. 23 2002 on Child Protection: people who involve children in the abuse, distribution and production of narcotics and/or psychotropic drugs.	Death penalty or 5 to 10 years in prison 20 years. Fines of Rp. 50 million to Rp. 500 million.
NO	CASE	RELATED REGULATIONS	THREAT
		supervision of minors. Also against officials who have authority over children, administrators, doctors, teachers, employees, supervisors or messengers in prisons, state workplaces, educational institutions, orphanages, hospitals, mental hospitals or social institutions.	
		Article 295 paragraph (1) number 1 of the Criminal Code: intentionally causing or facilitating indecent acts.	Maximum prison sentence of 5 years.
		Article 295 paragraph (1) number 2: facilitates or becomes a liaison for acts of abuse against children.	Maximum prison sentence of 4 years.
		Article 295 paragraph (2): a person who has a habit or job of being a liaison for child molestation (under his/her authority).	Maximum prison sentence of 4 years + 1/3.
		Article 296 of the Criminal Code: a person who has a habit or job of being a middleman for child molestation (pimp or child seller).	Maximum prison sentence of 1 year and 4 months.
		Article 82 of the Child Protection Law: Committing violence or threats of violence, forcing, using trickery, a series of lies, or persuading a child to commit or allow indecent acts to be committed.	Prison 3 to 15 years and a fine of Rp. 60 million up to Rp. 300 million.
NO	CASE	RELATED REGULATIONS	THREAT
7	Rape.	Article 285 of the Criminal Code.	Maximum prison sentence of 12 years.
		Article 81 of the Child Protection Law: By violence or threat of violence or by trickery or by persuasion so that the child has sexual intercourse with him.	Maximum imprisonment of 3 to 15 years and a fine of Rp. 60 million to Rp. 300 million.
8	Intercourse with ld.	Article 287 of the Criminal Code.	The maximum prison sentence is 9 years.

9	Gambling.	Article 303 bis of the Criminal Code.	Maximum prison sentence of 4 years.
10	Theft	Article 365 paragraph (1) of the Criminal Code: theft preceded, accompanied, or followed by violence or the threat of violence.	Maximum prison sentence of 9 years.
		Article 365 paragraph (2) of the Criminal Code: if the theft is committed at night in a closed house or yard or if the act is committed by two or more people in association, or if they enter the place of committing the crime by breaking or climbing or by using fake keys, fake orders or fake official clothes. Or if it causes serious injury.	Maximum prison sentence of 12 years. Maximum imprisonment of 15 years if death results. The maximum penalty is the death penalty or life imprisonment or a maximum of 20 years if results in serious injury or death and is committed by 2 or more people.
11	Extortion.	Article 368 paragraph (1) of the Criminal Code: carrying out extortion with violence or threats	Maximum prison sentence of 9 months.
NO	CASE	RELATED REGULATIONS	THREAT
		violence. Anyone who intends to benefit himself or another person.	
12	Human trafficking.	Article 297: Trafficking in women and trafficking in children.	Maximum prison sentence of 6 years.
		Article 83 of the Child Protection Law: Trafficking, selling, or kidnapping children for yourself or for sale.	Prison 3 to 15 years and a fine of Rp. 60 million up to Rp. 300 million.
13	Organ Trade.	Article 85 paragraph (1) of the Child Protection Law: Fighting for the division of the child's organs and/or body tissues.	Maximum imprisonment of 15 years and/or a maximum fine of Rp. 300 million.
14	Organ harvesting search.	Article 84 and 85 paragraph (2) of the Child Protection Law: Unlawfully carrying out organ transplantation, taking organs and/or body tissue from a child without considering the child's health, or health research that uses children as research objects without parental permission or without prioritizing the child's best interests.	Maximum imprisonment of 10 years and/or a maximum fine of Rp. 200 million.
15	Child exploitation.	Sexual Exploitation. Article 88 of the Child Protection Law.	Maximum imprisonment of 10 years and/or a maximum fine of Rp. 200 million.
		Exploitation of children for begging or dangerous work. Article 301 of the Criminal Code.	Maximum prison sentence of 4 years

In providing protection for children, it is necessary to pay attention to and refer to the principles and objectives of child protection.

Article 2 of Law Number 35 of 2014 states that the implementation of child protection is based on Pancasila and the 1945 Constitution and in

accordance with the basic principles of the Convention on the Rights of the Child, including:

- a. Non-discrimination, meaning that in treating children, one should not differentiate between one and another, for any reason whatsoever.
- b. The best interests of the child, meaning that in all actions concerning children carried out by the government, society, legislative bodies and judiciary, the best interests of the child must be the primary consideration.
- c. The right to life, survival, and development. Where these three elements are the most basic human rights for children protected by the state/government, society, family, and parents.

Child protection¹ should not be done excessively and pay attention to its impact on the environment and the child himself, so that the protection efforts made do not have negative consequences. Child protection must be carried out rationally, responsibly and beneficially, reflecting an effective and efficient effort. Child protection efforts must not result in the death of initiative, creativity, and other things that cause dependence on others and uncontrolled behavior so that children do not have the ability and willingness to use their rights and carry out their obligations. (Aulia, Saragih, and Zarzani 2024)

IV. CONCLUSIONS AND RECOMMENDATIONS

Protection of children in conflict with the law is based on the provision that every child has the right to survival, growth and development and the right to protection from violence and discrimination, so that every decision-making concerning children must be based on the principle of the best interest for the child. The application of the concept of diversion and restorative justice in handling cases of children in conflict with the law is a step that can be taken to divert the handling of children out of the judicial process, so that not every case involving children as perpetrators of crimes must enter the juvenile criminal justice system. The concept of diversion and restorative justice in the juvenile criminal justice system applies if the crime committed by

the child is threatened with imprisonment of less than 7 (seven) years and is not a repetition of the crime.

The guarantee of legal protection for children who commit crimes is specifically regulated in the Child Justice System Law, where this protection is through the diversion process and restorative justice in resolving children's cases. The aim is to ensure that the rights of children who have problems with the law are better protected and guaranteed. Where in the Child Criminal Justice System Law, it is regulated that at the level of investigation, prosecution, and examination of children's cases in the district court, this diversion must be attempted, as emphasized in Article 7 paragraph 1 of the Child Justice System Law.

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¹According to Article 1 point 2 of Law Number 35 of 2014, Child Protection is all activities to guarantee and protect children and their rights so that they can live, grow,

develop and participate optimally in accordance with human dignity and honor and receive protection from violence and discrimination.

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